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# Improving Louisiana Property Tax Procedures\*

*Melvin G. Dakin†*

The "Projet of a Revenue Code for the State of Louisiana" was completed by the Louisiana Revenue Code Commission in 1948. Subsequent to its completion, however, plans for its separate submission to the 1948 legislature had to be abandoned. Instead, through an agreement worked out between the Revenue Code Commission and the Louisiana State Law Institute, the present statutory provisions as redrafted by the commission were incorporated into the Institute's projet of the Revised Statutes of 1950 as Title 47, Revenue and Taxation.<sup>1</sup>

While this seemed at the time the most feasible way of utilizing the commission's work, it entailed sacrificing, at least temporarily, an important part of its program. Members of the commission had emphasized that the projet was not just a rationalization and codification of existing tax legislation, but that it contained, as an integral part thereof, recommended changes for improving existing laws which were to be proposed to the legislature as amendments to the code, once enacted.<sup>2</sup> Since the Institute did not propose to include in its projet of the complete statutes any recommended changes of a substantive character, this portion of the commission's work necessarily has been in abeyance since 1948.

A large portion of the time and attention of the commission was devoted to devising recommendations for improving procedures in the administration of the ad valorem tax laws despite the fact that as a long range objective the commission recommended withdrawal by the state from this field of taxation.<sup>3</sup> As it noted:

"... The ad valorem tax has traditionally been and remains the backbone of local government finance, while as a source

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1. La. R.S. (1950) 47:1-2611.

2. Projet of a Revenue Code for the State of Louisiana, preface p. 21 et seq.

3. Id. at 26-30, 32-33.

of State revenue, it has become comparatively unimportant. The need for a segregation and division of tax sources as between the local, state, and national government levels, so as to minimize the duplication of taxes, has received increasing recognition in recent years. Action by the State in yielding the ad valorem tax field to the local units would be a constructive step in that direction."

After noting the desirability of this step, however, the commission pointed out "basic inequalities resulting from the lack of uniform assessment practices and policies throughout the State would still exist" and that regardless of the state's action "all appropriate and practical measures be applied in the endeavor to terminate and to preclude the recurrence of the inequality and discrimination which has been found to exist at present in real property valuations."<sup>4</sup>

The recommendations which are discussed here include the following:

1. Amendments intended to improve techniques for bringing property onto the assessment rolls and for getting property on the rolls fairly and equitably valued;
2. Amendments intended to increase the efficiency of the assessors' offices and the work of the parish boards of review; and,
3. Amendments intended to insure a full and fair administrative review of valuation questions and of questions having to do with the legality of assessment prior to resort to the courts.

Our statutes charge the assessor with the obligation of getting all the taxable property onto the assessment rolls and require him personally to visit every piece of taxable property in his parish or district on pain of substantial penalties.<sup>5</sup> Nonetheless, the problem of unassessed property persists. With respect to assessment maps, for example, the auditor is charged with furnishing to the assessor township maps, "four inches to the square mile by scale, divided and subdivided into sections, quarters, and sixteenths of sections" and the assessor is charged with writing the owner's name in each sixteenth of a section or other parts thereof;<sup>6</sup> no provision is made for providing maps adequate for modern urban

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4. *Id.* at 34.

5. *Id.* at § 2078; La. R.S. (1950) 47:1958.

6. *Id.* at § 2079; *id.* at § 1959.

assessment. The commission suggests that the assessors throughout the state be required to maintain in their offices maps indicating both the ownership and assessed value of each piece of real estate and improvements thereon located in the parish, including those located within incorporated towns and cities. It expresses the opinion that such maps, adequately kept, would have the effect of bringing onto the tax rolls properties which may now be escaping taxation and would have the further important effect of spotlighting inequalities in the assessed values of similar properties within parishes and would prompt protests on the part of interested taxpayers against inequalities thus brought to light.<sup>7</sup>

The commission also notes that a great deal of personal or movable property escapes assessment altogether. As a step towards bringing more of such property onto the tax rolls it is suggested in the projet that, in addition to the right which the assessor now has to inquire into the insured value of property and to consider such value in assessment,<sup>8</sup> insurers operating in the state be required to submit to the tax commission data on all insurance carried by taxpayers on personal property within the state. Such data would include the name of the insured person and the location, type, and insured value of the property. The tax commission, would, in turn, make such information available to the assessors. At the present time, while the assessor presently has the power to inquire into such insured values, the commission notes that he must resort to compulsory process to obtain the information in the event a taxpayer chooses to withhold it. The availability of such data to the assessor on a routine statewide basis would eliminate the need for such compulsory process. Knowledge that such reports are required from insurers would result in rendition of substantial amounts of personal property not now on the tax rolls.<sup>9</sup>

The tax commission has the tremendous task of getting all property subject to taxation in the state listed and assessed at actual cash value and of equalizing the value of such taxable property throughout the state once it has been assessed.<sup>10</sup> To assist in this task, it is recommended that assessors throughout the state be required to maintain uniform and permanent records as to: (a) classification, grade and value of each tract of land located outside cities and towns and platted subdivisions and additions;

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7. *Id.* at 686-687.

8. *Id.* at § 2077; La. R.S. (1950) 47:1957.

9. *Id.* at 682-683.

10. *Id.* at §§ 2077, 2108; La. R.S. (1950) 47:1957, 1988.

(b) description and value of all improvements on land located outside cities and towns, et cetera; (c) description and value of all lots and tracts and improvements thereon in all cities, towns and platted subdivisions and additions.<sup>11</sup> Such classified data must, of course, be compiled under existing statutes in order to prepare assessment lists and abstracts:<sup>12</sup> a uniform pattern required by statute, however, would further simplify the work of the tax commission, particularly in carrying out field audits for the purpose of equalization within parishes. In this connection it is suggested that, instead of a general charge to equalize all taxable property in the state, there be an affirmative obligation imposed upon the tax commission to correct and adjust any assessment on an item of property not equitably assessed in comparison with the assessment of other comparable properties.<sup>13</sup>

More far reaching is the suggestion that in lieu of the present averaging procedure provided for arriving at equalization throughout the state, the tax commission be affirmatively charged with fixing assessments at the true actual cash value on the basis of all evidence available, including sales records of bona fide transactions and other data.<sup>14</sup> The present statutory formula provides for averaging property by parishes throughout the state and then for bringing each parish into conformity with the state average by addition or deduction.<sup>15</sup> In the projet the idea is advanced that only by an equalization procedure which seeks to bring assessed values in all parishes into conformity with true actual cash value can the commission discharge its statutory obligation to fix the value of all taxable property in the state.<sup>16</sup> To carry out what would be a substantially expanded equalization function, it is suggested that an equalization unit be created within the tax commission. Such a unit would have the duty of examining periodically, and not less than once in each three years, the assessment rolls of each parish, comparing the assessed valuation placed on items of property in the various classes with the actual cash values of such properties as indicated by all currently available evidence. It would also be charged with examining the assessment lists and rolls as prepared and submitted by the assessors so as to compare assessed valuation on individual items of property with assessed

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11. *Id.* at 686-687.

12. *Id.* at § 2109; La. R.S. (1950) 47:1989.

13. *Id.* at 718.

14. *Ibid.*

15. *Id.* at § 2108; La. R.S. (1950) 47:1988.

16. *Id.* at 718.

valuation on other comparable properties in the same class and thus determine whether property is being fairly and equitably assessed. It is also recommended that field investigations of the assessed valuation of immovable property be made at least once every three years. On the basis of such investigations, recommendations would be made to the tax commission for appropriate action to remedy inequalities and conform assessed valuations to actual cash value.<sup>17</sup>

A second group of amendments are designed to accelerate the adoption of new machine work methods in the assessors' offices by authorizing the tax commission to investigate mechanical aids and other devices and to make experimental installation of such aids and devices in selected parishes so as to test their usefulness. Such mechanical aids could be of substantial assistance in preparing assessment rolls for filing and in issuing notices with respect thereto within the established statutory periods.<sup>18</sup>

In the projet it is also suggested that a more manageable work load for both the tax commission and the assessors' offices might be achieved by amending the present absolute requirements that listing and estimation of value be completed by May 1<sup>19</sup> so as to provide that the assessors shall submit such lists not later than the first day of May or at such earlier date as may be fixed by regulation of the tax commission.<sup>20</sup> Such a provision would give statutory recognition to the fact that the tax commission cannot work on the assessment lists for all parishes simultaneously without an unnecessarily large staff but should have discretion to stagger the submissions by parishes. The proposed amendment would also enable the tax commission to synchronize the time for review by police juries with the return of the assessment lists to the assessors. The schedule for the year, with the amendments proposed, would be as follows:

1. By January 1 the tax commission to have printed and prepared for distribution to the tax assessors throughout the state the blank forms for listing and assessing property.<sup>21</sup>

2. By February 1 the assessors to have mailed to all known owners of taxable property in the parish a copy of such assessment form;<sup>22</sup>

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17. *Id.* at 657-658.

18. *Id.* at 656.

19. *Id.* at § 2107; La. R.S. (1950) 47:1987.

20. *Id.* at 715-716.

21. *Id.* at 679-680.

22. *Ibid.*

3. By April 1 each taxpayer to have filled out such form and made oath to its correctness and returned it to the assessor;<sup>23</sup>

4. By May 1 or earlier the assessor to have completed the listing and estimation of value of all property and submitted such list to the tax commission;<sup>24</sup>

5. By not later than 15 days *after the return of the assessment list to the assessors by the tax commission*, the lists to be open for a period of twenty days to the taxpayers;<sup>25</sup>

6. By not later than the fifth day following the termination of the 20-day inspection period in the office of the assessor, sessions of the police jury sitting as a board of reviewers to begin;<sup>26</sup>

7. By the 11th day, or by extension the 16th day, after the board of reviewers shall have commenced public hearing, assessment lists to be certified to the assessor and to the tax commission;<sup>27</sup>

8. By or before November 15 the tax roll to be completed and filed in the recorder's office and in the sheriff's or tax collector's office;<sup>28</sup>

9. By December 15 notices to have been mailed to all taxpayers disclosing to such taxpayers the assessed valuation of property against which a tax is levied, the rate of tax applicable, the full amount of tax for the year, the ward in which the property subject to the tax is located, and the number of the assessment;<sup>29</sup>

10. By December 31 taxes to be paid except that if notice of the tax is not mailed prior to December 16 and the taxpayer pays the tax within 15 days after such notice is mailed and prior to January 15 next following, no interest to be charged.<sup>30</sup>

The commission did not recommend any changes in the schedule for the Parish of Orleans.<sup>31</sup>

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23. Id. at § 2076; La. R.S. (1950) 47:1956.

24. Id. at 715-716: The commission made no recommendations with respect to the present procedure for the state generally, requiring submission of the tax list to the tax commission for equalization prior to review by the police jury: if the tax commission were charged, as is suggested supra, with specific responsibility for conforming assessments to actual cash value and assuring equitable assessments as between properties, it would seem preferable for it to have the benefit of police jury review before entering upon its task. This is presently the procedural pattern for the Parish of Orleans as indicated in note 31 infra.

25. Id. at 727-729.

26. Ibid.

27. Ibid.

28. Id. at § 2113; La. R.S. (1950) 47:1993.

29. Id. at 761-762.

30. Ibid.

31. (1) Taxpayers to return sworn lists of property within 20 days after the form for such purpose has been left at the domicile or place of business

A third group of amendments recommended in the projet have to do with changes intended to insure a full administrative review of questions of valuation and of legality of assessment, prior to resort to court. The statutes now provide numerous instances of direct appeal to the courts from various kinds of assessors' actions. For example, in the provisions for listing and assessing omitted property, parties are given a period of five days after the decision of an assessor within which to file a direct appeal to district court.<sup>32</sup> As a further example, changes or corrections in the assessment of property ordered by the tax commission may now be made without a hearing before the commission: the right of appeal to the court within 30 days after such a change or correction is ordered is relied upon as assuring due process to the taxpayer.<sup>33</sup> As to matters of correctness or legality of assessments, a taxpayer who has filed a sworn list or return of property for taxation on or before the 1st day of April has the right to institute suit in a court of appropriate jurisdiction, such suit to be filed within 30 days after the date for filing of the tax roll. No other conditions need be satisfied prior to suit.<sup>34</sup> As to matters of valuation, any taxpayer dissatisfied with the action of a parish board may resort to a district court for review of such action without first resorting to the tax commission.<sup>35</sup>

The Revenue Code Commission has recommended that all determinations by an assessor both as to valuation and legality be subject to review by the tax commission prior to appeal to court. Amendments which would accomplish this are proposed in the projet. For example, with respect to listing and assessing omitted property, an opportunity is presently afforded the taxpayer to

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but not later than June 1; (2) Assessors to have completed work of preparing and making up the assessment rolls for the following calendar year by the 1st of August; (3) Assessment rolls to be exposed for inspection by taxpayers for a period of 15 days after their completion; (4) Certification of the assessment roll to the Board of Reviewers for the City of New Orleans to be made at the end of the 15-day period and a period of 10 days thereafter to be set aside for the purpose of conducting public hearings for all persons desiring to be heard on their assessments; (5) At the conclusion of such hearings the assessment rolls together with any recommendations thereon to be certified to the tax commission; (6) The tax commission to complete its work of fixing and equalizing valuation and review of the assessment rolls by the 15th of October; (7) On or before the 15th day of October the rolls showing final assessments to be filed with the city and state tax collectors for the Parish of Orleans; (8) The collection of taxes to begin on the 1st day of January of the year for which such taxes are levied.

32. *Projet of a Revenue Code for the State of Louisiana* § 2086; *La. R.S. (1950)* 47:1966.

33. *Id.* at § 2105, 2118; *id.* at § 1985, § 1998.

34. *Id.* at § 2118; *id.* at § 1998.

35. *Ibid.*



lodge a protest with the assessor. But thereafter the decision of the assessor is to be final, subject only to the right which we have noted to appeal to the court within 5 days from the assessor's decision. In the amendment proposed in the projet such a decision would be regarded as an assessor's determination, which could be appealed within a period of 10 days to the tax commission.<sup>36</sup> In the event of appeal to the tax commission, provision is made for holding a hearing after proper notice. After a determination with respect to such appeal, the taxpayer is given a period of 15 days within which to resort to the courts for review.<sup>37</sup> In matters of valuation it is proposed that a right to petition the district court for review shall be granted a taxpayer in any instance where he is dissatisfied with any valuation fixed or reviewed by the tax commission. It is recommended that such petition for review be filed not later than the 1st day of November following the determination appealed from or 30 days after either the filing of the rolls or the tax commission's determination, whichever period expires the latest.<sup>38</sup>

There is presently in effect a prohibition against court process in restraint of collection of ad valorem taxes.<sup>39</sup> If the foregoing recommendations were adopted it would seem logical that such prohibition be relaxed to the extent of permitting process to issue in restraint of the sale for taxes of any property, the taxes on which are the subject of a pending appeal from a determination of the tax commission.<sup>40</sup> In such an event the taxpayer should be required, as is recommended, to pay all taxes not in contest and to post appropriate bond. But it would be obviously wasteful of time and money to require the taxpayer to change to a suit to recover taxes by paying his contested taxes just in order to avoid the sale of his property for taxes concerning which he has already pressed his case through the tax commission and has filed an appeal to the courts therefrom.<sup>41</sup>

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36. *Id.* at 695, 723.

37. *Id.* at 723.

38. *Id.* at 735.

39. *Id.* at 2161; La. R.S. (1950) 47:2110.

40. *Id.* at 778-779.

41. *Ibid.*